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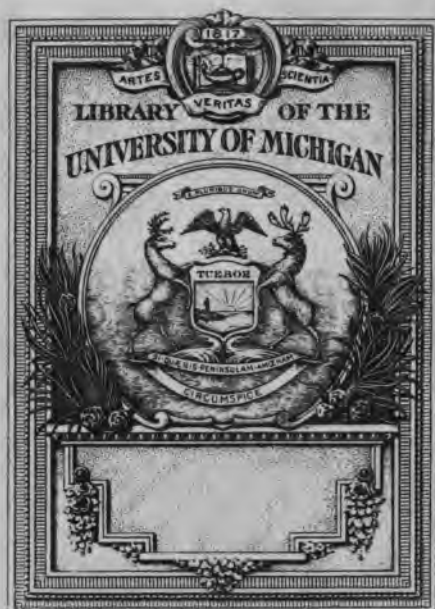
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A
WORKING EDITION

OF THE

MICHIGAN ELECTION LAW

AND

GUIDE TO VOTERS AND ELECTION OFFICERS.

REVISED ACCORDING TO THE LATEST LEGISLATION

COMPILED BY S. B. McCracken.

DETROIT, MICHIGAN:
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1902.

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MICHIGAN ELECTION LAW.

Herewith is presented the latest revision of the Election Law Compilation. Everything is brought up to date, including legislation and judicial decisions. The explanatory notes are made quite full, and are designed to meet many inquiries that have been addressed to the compiler from time to time. Such pre-existing and unrepealed statutory provisions as connect themselves with the subject matter are included herein with the legislation of 1901, but the order of the latter has not been adhered to. The arrangement of sections (and in some cases parts of sections) has been so changed as to secure, as far as practicable, continuity of the text with the processes that it prescribes. The statutory provisions are contained in the coarser print, although they are not in all cases given literally. They are indicated, however, by the figures in parentheses following the side heads, which refer to the consecutive section numbers of the act of 1891.

The more important changes in the ballot law by the Act of 1901 were:

1. Requiring the ballots to be numbered and the corners perforated. (See sec. 12, 15 and note, 55.)
2. Where more than one person is to be elected to a like office, the cross mark against a name on some other ticket cancels the name on the party ticket, except, etc. (See sub-section 4, page 4.)
3. The ticket of the party having the greatest number of votes in the State, takes precedence on the ballots, instead of the county, as heretofore. (See Sec. 55.)
4. Prescribing the order in which the different offices shall be named on the ballot. (See Sec. 55.)

MANNER OF CONDUCTING ELECTIONS.

1. **When Polls to Open and Close.** (5) On the day of election, the polls shall be opened at seven o'clock in the forenoon, or as soon thereafter as may be, and shall be continued open until five o'clock of the same day, and no longer; but in townships the board may adjourn the polls at twelve o'clock, noon, for one hour, in their discretion. The inspectors shall cause proclamation to be made upon opening the polls, and also of the closing of the polls, one hour, thirty minutes, and fifteen minutes, respectively, before the closing.

2. **Opening and Closing at Judicial Elections.** (47) At the general election to be held on the first Monday of April, 1893, or in any second year thereafter, the polls of such election in townships and cities shall, for all purposes, open and close at the times herein prescribed for the opening and closing of polls, anything in Act Number 194, of the Public Acts of 1891, or in any other statute, local or general, to the contrary notwithstanding: Provided, That this section shall not be construed as forbidding a noon adjournment in townships. (Am. Act 18, 1893.)

3. **Central Standard Time.** The Act of 1885, establishing Central Standard Time, will be held to govern at all general elections and registrations, and for the sake of uniformity of practice it would be well to observe the same rule at local elections also.

4. **Opening the Poll.** The following summary of steps to be taken in opening the poll will be found convenient: When the full number of inspectors are present, the chairman should call them to order at the hour for opening, and they should then appoint clerks and gatekeepers. If any of the inspectors are absent, the chairman should, at the proper time, announce to the electors present that the

time for opening the poll has arrived, and the vacancies should then be filled by viva voce vote of the electors. If the chairman is absent one of the other inspectors should make the announcement. The vacancies being filled, the clerks and gatekeepers will then be appointed. Any inspectors so elected, and the clerks and gatekeepers, should be sworn. The ballot boxes should then be examined, to see that nothing remains in them; they should then be locked, and the keys delivered to one of the inspectors, to be designated by the board. The packages of ballots are then opened, and the ballots marked by the initials of one of the inspectors, to be designated for the purpose, written with ink on the upper left hand corner of the back of the ballots. The pencils for the marking should then be placed in the booths, and the printed instructions placed, one in each booth, two in the polling room, and three on the outside of the building. Proclamation should then be made that the polls are open.

5. Inspectors of Election. (1) That at all elections at which any presidential elector, member of Congress, member of the Legislature, State or County officer or Circuit Judge is to be elected, or any amendments to the Constitution, the supervisor, two justices of the peace (not holding the office of supervisor or township clerk), whose terms of office will first expire, and the township clerk of each township, [and the assessor, if there be one, and aldermen of each ward in a city,] shall be inspectors of election: Provided, That in all voting precincts where by special enactment provisions exist for designating inspectors of election, such officers shall be the inspectors of election under this Act: And provided further, That no person shall act as such inspector who is a candidate for any office to be elected by ballot at said election.

The words in brackets in the foregoing section are practically obsolete by the provision governing cities of the fourth class, in which the supervisor and two aldermen of each ward, and one elector to be named by the common council, constitute the board. When a ward in a city is newly divided into election districts, the council has power (as by Sec. 65 herein) to appoint election boards in such districts. But this authority exists only as to positions newly created, where there is no "vacancy." But in cities of the fourth class the common council is required, at least one week before election, to supply vacancies. Vacancies can only be filled by the electors at the opening of the poll. (93 Mich., 446.)

6. Candidates as Election officers. Under the provision which makes candidates ineligible as inspectors, there would be no legal objection to a candidate acting as a clerk of election, even though he may be a supervisor, a justice, or a township clerk standing for a re-election. But he should act only as a clerk, and should be specially appointed and sworn as such. Should a person who is a candidate act as an inspector, it would not affect the validity of the election if the same was honestly conducted, but he would be liable under the provisions of Sec. 70 herein.

7. Filling Vacancies. (2) In case four inspectors shall not attend at the opening of the polls, or shall not remain in attendance during the election, the electors present may choose, viva voce, such number of electors as, with the inspector or inspectors present, shall constitute a board of four in number; and such electors so chosen shall be inspectors of that election during the continuance thereof.

The plain intent on the subject of election boards is, that they shall consist of four members, although in some of the city charters provision is made for but three, and three only are provided for where townships are divided into election districts, as by Howell §126. When a fourth inspector is not named before the time for opening the poll, the deficiency should be supplied viva voce as above. But an election conducted by a less number than four (if honestly conducted) would be valid.

8. Chairman of Board. (8) When the supervisor shall be one of the board, he shall be chairman thereof, but if he be absent, such one of their number as the inspectors shall designate, shall be chairman.

The word "supervisor," as here used, has reference to townships. In cities of the fourth class, when the full number of inspectors are present or vacancies

have been filled, they choose one of their number chairman. In some of the cities acting under special charter, there is nothing to define who shall be chairman.

9. Clerks of Election. (3) In townships, the township clerk, if present, shall act as clerk of the election, and before opening the polls, the inspectors shall appoint an elector to be a second clerk, and if the township clerk be not present, the board shall appoint two such clerks, and the inspectors in each voting precinct in a city shall designate one of their number to act as clerk, and shall appoint one other elector as second clerk, and each of the clerks so appointed, and each of the inspectors so chosen, shall take the constitutional oath of office, which oath either of the inspectors may administer.

The township clerk acts in the double capacity of inspector and clerk of election. In case of his absence or ineligibility to act, an elector should be chosen as an inspector in his stead, by viva voce vote of the electors present. He should be sworn as an inspector. The same person, or some other inspector, may be then designated to act as clerk, but the inspector so designated need not be again sworn as clerk, because his obligation as an inspector would comprehend the whole. The law as to townships contemplates four inspectors, one of whom shall act as clerk, and it also provides for an additional clerk who is not an inspector. It may be questioned whether in cities where a large vote is polled in a given district, four inspectors, sharing also the clerical duties (as provided in cities of the fourth class), would be sufficient. Should outside clerks be appointed, no exception could be taken unless fraud could be shown as a result. In general it may be said that the laws prescribing the method of elections are directory rather than mandatory, and that technical departures from the letter of the law do not affect the validity of an election, although where fraud is charged irregularities may strengthen its presumption.

10. Ballot Boxes to be Examined. (7) Before opening the poll, the ballot box shall be examined, and the contents, if any, removed therefrom; it shall then be locked, and the key thereof delivered to one of the inspectors, to be designated by the board. The said box shall not be opened during the election, except as provided by law in case of adjournments.

THE BALLOTS AND METHOD OF MARKING.

11. Packages of Ballots to be Opened—Marking with Initials. (22) At the opening of the polls, after the organization of, and in the presence of the board of inspectors, one of the inspectors shall open the packages of ballots in such a manner as to preserve the seal intact. He shall then deliver to one of the inspectors, to be designated by the board, fifty of the ballots, and shall place the pencils for marking the ballots in the booths. The inspector so designated shall at once proceed to write his initials in ink on the ^{upper} left hand corner of the back of each of said ballots, in his ordinary handwriting (but not upon the perforated corner) and without any distinguishing mark of any kind. As each successive elector calls for a ballot, another one of the inspectors shall deliver to him the first signed of the fifty ballots, and as the supply of ballots in the hands of the inspectors shall decrease, additional ballots shall be signed by the same inspector, so that at least twenty-five ballots so signed, shall be at all times in the hands of the inspector delivering the ballot to the elector. (Am. Act ~~244~~ 1901.) *lower*

12. Ballots to be Delivered to Electors—Method of Marking. (26) When an elector shall not be challenged or shall have taken the necessary oath or affirmation, he shall be permitted to vote. On entering the room, the inspector having charge of the ballots shall deliver to him [the voter] one of them and the clerk shall enter his name upon the poll list, together with the number of the ballot given him, and on request such inspector shall give explanation of the manner of voting; if deemed necessary by the board an interpreter may be called. The elector shall then, and without leaving the room, go alone into a booth which is unoccupied, and indicate the candidates for whom he desires to vote as follows:

For the purpose of brevity as well as for greater clearness of direction, the method of marking the ballot is summarized as follows:

1. To vote a straight party ticket, make the cross mark in the circle under the party name. No other mark of any kind should be made on the ballot. This is illustrated by sample ballots 1 and 2 on pages 22 and 23.

2. Should there be some name on the party ticket that you do not wish to vote for, and do not want to vote for any person for that office, after having made the cross mark as above, simply erase (draw a mark plainly) through the name that you do not want to vote for.

3. If you wish to vote your party ticket, and yet vote for some person or persons on some other ticket or tickets, mark your party ticket at the top as in the first instance, and make the cross mark in the square before the name or names on other tickets that you wish to vote for. You may or may not, at your option, erase the corresponding names from your own party ticket. This is illustrated by sample ballot No. 4, on page 23.

4. Where more than one person is to be elected to a like office, as coroners, circuit court commissioners, etc., and you want to vote for some candidate on some other ticket, mark your own party ticket at the top as in the first instance, and mark the names on the other ticket that you want to vote for. See sample ballot No. 4, on page 23. This illustrates the old rule, but is changed by an amendment (Act 214, 1901.) By this amendment, if the names of Cooper and Etheridge were not marked out, the vote would go against Axford and Beattie, as standing opposite the names of Abell and Baxter.

NOTE.—The provision for numbering the ballots, and for perforating the corners so that the numbers may be readily torn off, as required by this section and by section 55 herein, is new and wholly novel as related to the present ballot system. Its wisdom and its practicability must be determined by experience. The law, as heretofore, has required the keeping of two poll lists, but this section, and section 12 (which see,) speak of but one. Section 35 however, speaks of two.

5. If you wish to vote for some person for some office whose name is not on any ticket, after having marked your party ticket at the top as in the first instance, write or paste the name that you want to vote for in the space under the name that you do not want to vote for. You may or may not, at your option, erase the name that you do not want to vote for. If slips are used they may be made to cover the name, or may be placed below it. See sample ballot No. 4, on page 23.

6. If you do not want to vote a party ticket, make no cross at the top, but make the cross mark in the square before the name or names on some one ticket or on different tickets that you want to vote for. This is illustrated by sample ballot No. 3, on page 22.

13. When Inspector May Mark Ballot. (32) When an elector shall make oath that he cannot read English, or that because of physical disability he cannot mark his ballot, or when such disability shall be made manifest to the inspectors, his ballot shall be marked for him in the presence of the challenger of each political party having a challenger at such voting place, by an inspector designated by the board for that purpose; which marking shall be done in one of the booths. (Am. Act 202, 1893.)

Tickets of illiterate and infirm persons must be marked in the booth by an inspector. In the May-Reynolds case (99 Mich., 538), it was held that a voter who alleges inability to read English must be sworn as to that fact, and that where a voter's ballot is marked for him, the marking must be done by the inspector appointed for the purpose. In McQuade vs. Furgason (Ecorse case), 91 Mich., 438, it was alleged that outsiders were permitted to manipulate the voters in the booths, and that ballots were marked for electors by others than inspectors. In rendering its decision the court say that if these (with other) allegations are true, "the election law of this State was most grossly violated."

"The action of the chairman of the board of inspectors in receiving and depositing in the ballot box the ballots of thirteen unregistered persons, and the ballots of a large number of persons who had shown them after they had been marked, and in allowing and instructing third persons to enter the voting booths with a large number of electors, and, after their ballots had been marked by such third persons, depositing them in the ballot box, is held to have vitiated the vote of the election precinct."—Seavitt vs. McQuade, 94 Mich., 439.

14. Reception of Ballots. (26) When an elector shall not be challenged or shall have taken the necessary oath or affirmation, he shall be permitted to vote.

The chairman usually receives the votes, but may call any other inspector to that duty. When a vote is offered, the inspector receiving it should first announce the name to the inspector holding the registration list, who will examine the list, and if the party is registered and not challenged, the inspector will then publicly announce the name, which will be entered by the poll clerks as the ballot is placed in the box. The examination of the register and other facts bearing upon the right of a person to vote, should be made when he presents his ballot, after having marked it, and not when he applies for a ticket.

15. Ballot to be Folded—How Deposited in Box—Not to be Shown. (26) Before leaving the booth, the elector shall fold his ballot so that no part of the face thereof shall be exposed, and so that the initials of the inspector shall be on the outside thereof, and on leaving the booth shall at once deliver, in public view, such ballot to the inspector designated to receive the same, who shall thereupon announce audibly the name of the elector offering the same, and the number of the ballot, and shall ascertain by comparison of the number of the ballot with the number of the ballot given such elector as shown by the poll list whether the ballot presented is the same one given such elector, and if it is the same the inspector shall tear off the corner of the ballot where perforated, containing the number, and shall then, in the presence of the elector and of the board of inspectors, deposit the same in the ballot box without opening the same, and if it is not the same ballot given said elector it shall be rejected. (Am. Act 214, 1901. The section further provides that if the elector exposes his ballot after having marked it, he forfeits his right to vote.) Act 202, 1893.)

The provision against showing the ballot after it has been marked is strictly construed in *Reynolds vs. May*, 99 Mich., 538.

16. Registration on Election Day. A person who was sick or absent on the regular days of registration, may register on election day upon making proof of the facts by his own oath and that of another elector. (Howell, Sec. 87, 93.) Where a person applies for registration on election day, the inspectors act upon discretion, and are not compelled to admit his vote unless satisfied of its legality. (16 Mich., 203.)

17. Admittance of Electors Within the Railing. (21) The entrance gate shall be in charge of a gate keeper appointed at the opening of the polls by the board of election inspectors, and duly sworn to allow no person to pass through said gate and enter said railing except as otherwise provided in this Act, except to vote or to assist some elector in the preparation of his ballot, as provided in this Act, and no person shall be allowed to be inside of said railing, except to vote or to assist an elector in the preparation of his ballot as hereinafter provided, and as soon as the elector has voted he shall retire without, and shall not again be admitted within the railing, and only as many electors as there are booths shall be allowed within the railing at one and the same time, and the electors shall be admitted in the order in which they shall apply.

18. Duties of Gate Keepers. (39) The gate keepers of elections shall be peace officers at polling places, and are hereby delegated power equal to constables for the purpose of maintaining peace and quiet at the polls on

election day. They shall have charge of and keep the gates at polling places, and shall not allow any person to approach within the railing, except those authorized by law, and qualified electors, whom they shall allow to pass through the gates and approach the ballot box or boxes for the purpose of voting; and they shall admit one elector at a time, only, to vote, and shall cause said elector to retire without the gate and railing as soon as he has voted; and no person shall in any manner interfere with a gate keeper in the discharge of his duty; and it shall be unlawful for the gate keepers to aid, assist, suggest, advise or entreat an elector to prepare his ballot in a particular manner, or to coerce or attempt to coerce an elector in any way to vote or to refrain from voting for any particular person or party. No person shall be eligible to fill the office of gate keeper at any election when his name shall be on any ticket at said election. Gate keepers shall be at the polling place at the opening of the polls, and shall remain there until the closing of the polls, and shall receive as compensation two dollars per day for each day while actually engaged.

19. Limitation of Time in the Booths. (42) The board may make such regulations as they deem proper, limiting the time in which an elector may remain in the room or booth while preparing and voting his ballot; such limitation, however, shall not be less than one nor more than five minutes.

20. Ballots Not to be Distributed Outside. (30) No ballot shall be distributed by any person other than one of the inspectors of election, nor in any place except within the railing of the voting room, to electors about to vote, and no ballot which has not the initials of a member of the board of election written by such member on the back thereof shall be placed in the ballot box.

21. Solicitation Prohibited. (33) It shall be unlawful for the board, or any of them, or any person in the polling room or any compartment therewith connected, to persuade or endeavor to persuade any person to vote for or against any particular candidate or party ticket.

22. Duplicity—Spoiled Ballots. (34) If the elector votes for more than one candidate for the same office, said ballot shall not be counted for those persons, but shall be as to them null and void. If any elector inadvertently spoils a ballot he may obtain another from the board by returning such spoiled ballot to the board, who shall preserve the same for return to the city or township clerk.

23. Unused Ballots to be Returned. (35) The board of inspectors of election shall preserve the unused ballots, together with the ballots which have been spoiled, and return the same to the city or township clerk, with a statement of the number of ballots used, and there shall be given by the clerk to the inspectors of election a receipt therefor, which shall be filed with the chairman of the board.

CHALLENGES.

24. Committees May Appoint Challengers. (23) At every election, each of the political parties shall have the right to designate and keep not exceeding two challengers at each place of voting, who shall be assigned such position immediately adjoining the inspectors, inside the polling place, as will enable them to see each person as he offers to vote, and a seat and table or desk on which he may write within the railing shall be furnished for the accommodation of one of such challengers of each political party, and he shall have the right to inspect the poll lists as kept by the clerks, and who shall be protected in the discharge of their duty by the inspectors and the police. Authority, signed by the recognized chairman or presiding officer of the chief managing committee of a party in such county or township, city, ward or voting precinct, shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is

kept. The chairman appointing any challenger may, at his discretion, remove him and appoint another. Any challenger shall have the right and privilege of remaining during the canvass of the votes and until the returns are duly signed and made. (Am. Act 202, 1893.)

From the phraseology, a challenger appointed by a county, township, city or ward committee, would have authority in any precinct of the county, township, city or ward respectively. The sentence is doubtless purposely made elastic in this respect. But in case of the appointment of challengers at the same poll by two committees, resulting in a contest, the inspectors would doubtless recognize those representing the least political division, as nearest to the matter in hand; as, an appointment by a precinct committee would be recognized over a county committee appointment.

25. Duty of Inspectors to Challenge. (25) It shall be the duty of each inspector to challenge every person offering a ballot whom he shall know or suspect to be disqualified as an elector; and the board of inspectors shall possess full authority to maintain regularity and order and to enforce obedience to their lawful commands during an election, and during the canvass of the votes after the poll is closed.

26. Oath to Challenged Person. (24) If any person offering to vote shall be challenged as unqualified by any inspector, challenger or elector entitled to vote at that poll, the chairman of the board of inspectors shall declare to the person challenged the constitutional qualifications of an elector; and if such person shall state that he is a qualified elector, and the challenge shall not be withdrawn, one of the inspectors shall tender to him such one of the following oaths as he may claim to contain the grounds of his qualifications to vote:

1. You do solemnly swear (or affirm) that you are twenty-one years of age, that you are a citizen of the United States, that you have resided in this State six months, and in this township (ward or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or

2. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State on the twenty-fourth day of June, one thousand eight hundred and thirty-five, that you have resided in this State six months and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or

3. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State on the first day of January, one thousand eight hundred and fifty, that you have declared your intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding this election, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or

4. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State two years and six months prior to the eighth day of November, in the year 1894, that you declared your intention to become a citizen of the United States, pursuant to the laws thereof, two years and six months prior to said eighth day of November, that you have resided in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or

5. You do solemnly swear (or affirm) that you are twenty-one years of age, that you are a native of the United States, that you are a civilized inhabitant of Indian descent and do not belong to any tribe, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election.

If such person so challenged will take either of the above oaths, his vote shall be received; but if such person shall therein swear falsely, he shall be liable to the pains and penalties of perjury. (Am. Act 2, 1895.)

The statute gives the inspectors no discretion as to the reception of a vote when the challenged party takes the prescribed oath. (97 Mich., 361.)

27. Indorsement on Ballot. Whenever the ballot of any person, who has been challenged, and who has taken the oath, shall be received, it shall be the duty of the inspectors to cause to be plainly indorsed on said ballot, with pencil, and in the manner hereinafter provided, before depositing the same in the ballot box, the number corresponding to the number placed against such voter's name on the poll lists. (Howell, Sec. 230.)

28. Indorsement, How Concealed. To prevent the identification of such ballot, it shall be the duty of the inspectors to cause to be securely attached to it, with mucilage or other adhesive substance, a slip or piece of blank paper, of the same color and appearance, as near as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said indorsement, but not to injure or deface the same. (Howell, Sec. 231.)

NOON ADJOURNMENT IN TOWNSHIPS.

29. Comparing the Poll Lists. (27) At each adjournment of the poll, the clerks shall, in the presence of the inspectors, compare their respective poll lists, compute and set down the number of votes, and in case the same do not agree shall, under the direction of the board, correct all mistakes that may be discovered, until such poll lists shall be made in all respects to correspond.

30. Ballot Box to be Locked and Sealed. (28) The ballot box shall then be opened and the poll list placed therein, the box to be locked, and at least five minutes before the removal of the same a piece of leather (or canvas) so placed as to extend from the opening in the lid of said ballot box to the key-hole in such manner as to completely cover both such holes, shall be placed thereon and the same securely fastened with sealing wax stamped with the official election seal of such township or ward, such piece of leather (or canvas) and the sealing wax to be so arranged as to render it impossible to open either of said holes without breaking said seal. The key shall then be delivered to one of the inspectors, the box to another, and the seal to another. Such box shall not be opened nor the seal broken until the box has been publicly exposed at least five minutes before the reopening of the poll.

31. Reopening of the Poll. (29) The inspector having the key shall keep it in his possession, and deliver it again to the board at the next opening of the poll, and the inspector having the box shall carefully keep it without opening or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly deliver it in that state to the board of inspectors at the next opening of the poll, when the seal shall be broken and the box opened, the poll lists taken out, and the box again locked.

CANVASS AND RETURNS.

32. Comparing the Poll Lists—Excessive Ballots. (36) Immediately on closing the polls, the board shall proceed to canvass the votes. Such canvass shall be public, and shall commence by a comparison of the poll lists and a correction of any mistakes that may be found therein, until they shall be found or made to agree. The box shall then be opened and the whole number of ballots counted. If the ballots shall be in excess of the number of the electors voting according to the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw out and destroy so many ballots therefrom, unopened as shall be equal to such excess.

But when a general and a local election are held, or where there are separate city and ward tickets, so that more than one box is used, if an excess of ballots is found in the box first opened, it would be proper not to destroy them at once, but, after being drawn out, they should be sealed up (unopened) and kept until the count is finished, as the excess may come by reason of some ballots having been placed in the wrong box. (11 Mich., 362.)

33. Method of the Canvass. (36) They shall first select and count the straight tickets, and give the number to each candidate voted for on the straight ticket. All other tickets shall be laid on the table and counted in regular order in such subdivisions thereof as may be convenient for a prompt and careful determination of the result of such election.

34. Irregular and Defective Ballots. (36) In the canvass of the votes, any ballot which is not indorsed with the initials of the inspector as provided in this Act, and any ballot which shall bear any distinguishing mark or mutilation, shall be void, and shall not be counted, and any ballot, or part of a ballot, from which it is impossible to determine the elector's choice of candidates, shall be void as to the candidate or candidates thereby affected: Provided, however, That all such ballots shall be preserved, marked by the inspectors (not counted) and kept separate from the others by being tied or held in one package by a rubber band or otherwise.

As to distinguishing or identifying marks on ballots, see ruling on page 20.

35. Disposition of the Ballot Boxes, Seal, etc. (37) After the ballots are counted they shall, together with one tally-sheet, be placed in the ballot box, which shall be securely sealed in such manner that it cannot be opened without breaking such seal. The ballot box shall then be placed in charge of the township or city clerk, but the keys of said ballot box shall be held by the chairman of the board and the election seal in the hands of one of the other inspectors of election.

36. Disposition of the Poll Lists. One of the poll lists shall be delivered to the township clerk, and the other to the county clerk, which lists shall be filed and preserved by them in their respective offices. In a city, the ballots, and one of such poll lists and statements, shall be delivered to the city clerk, and shall be kept and preserved by him. (Howell, Sec. 178.)

37. Declaration and Statement of Result. (38) Immediately after the count of the tickets or ballots has been completed, the result and the number of votes received by each candidate or person on the ticket shall be publicly declared by one of the inspectors. The inspectors shall then prepare a statement of the result in duplicate, showing the whole number of votes cast for each office, the names of the persons for which such votes were given, and the number each person received, in which statement the whole number of votes given for each office, and the number given for each person, shall be written out in words at length. Such duplicate statements, when certified by the inspectors and duly signed, shall be delivered to the township or city clerk, and shall by said clerk be, within twenty-four hours after the result is declared, delivered in person or immediately forwarded by registered mail, one copy to the board of county canvassers in care of the judge or register of probate, and the other, together with one of the original tally sheets, to the county clerk, which said statements and tally sheets shall be placed in separate envelopes and sealed by said inspectors before their delivery to the township or city clerk. (Am. Act 214, 1901.)

38. Election Districts in Townships. In *Belknap vs. Board of State Canvassers*, 95 Mich., 155, it is held that the provision for consolidating the returns where townships are divided in election districts (Howell, Sec. 130), does not apply to general elections, but that the returns from each precinct should be transmitted to the county canvassing board, to be by them tabulated and canvassed. The township clerk would be the proper medium of transmission.

39. No Adjournment. The phraseology of sec. 32 preceding, "Immediately on closing the polls," is construed in 27 Mich., 116, to mean that the canvass must be completed and the returns fully certified before any adjournment of the board. Some of the city charters provide that the statements as to city and ward officers shall be made out the same or the following day. The Act governing cities of the fourth class is silent on the subject.

40. The Poll Lists. If the number of names on each poll list is the same, the lists will be presumed to agree. It would be well, however, for the clerks to

compare each page as it is completed, to see that the first and last names are the same, and that the numbers correspond. By the Act of 1889, the poll lists, when duly verified, are to be signed by the inspectors and attested by the clerks. This last provision is not in the Act of 1891, but it may be fairly presumed to be still in force, and it is at least a safe rule to follow.

41. Amending Returns. When the inspectors have completed the canvass and the statements and returns, and have adjourned as a board, they have no further power. They cannot again meet and amend the returns or make a recount of the ballots. (14 Mich., 320; 27 Mich., 116; 90 Mich., 27.) But this rule would not prohibit the mere correction of clerical errors.

42. Comparing the Returns. When the returns are made out, each set should be held by an inspector, while another inspector should read from the tally sheets, so as to see that there is a perfect agreement. This reading and comparison will be a sufficient announcement of the result, if so stated at the time.

43. Copy of Registration Lists. In cities, the inspectors, on closing the poll, are required to take one of the printed handbills and write thereon the names of all registered persons not on the printed list. The copy so made is to be certified by the inspectors, or a majority of them, and filed with the county clerk. (Howell, Sec. 85.)

44. The Return Blanks. As soon, say, as two o'clock, it would be well to place the return blanks in the hands of one of the clerks, who, under the direction of an inspector, should fill them out as fully as they can be before the canvass is completed. They may then all be signed by the inspectors as they have leisure during the afternoon. This course will greatly lessen the final work in closing up the returns.

45. The Tally Sheets. One of these is to be placed in the box with the ballots. (See sec. 37.) The other, as to a general election, is returned to the county clerk with the official returns. (See secs. 35, 37.)

46. The Registration Books. These should be signed by the inspectors after the close of the poll, and returned to the proper clerk with the election returns.

BOARD OF ELECTION COMMISSIONERS.

47. Election Commissioners in Counties. (9) In each county in the State, the judge of probate, county clerk and county treasurer, shall constitute a board of election commissioners, two of whom shall constitute a quorum, and of which board the judge of probate shall be chairman and the county clerk shall be secretary. It shall be the duty of said board to prepare a sufficient number of ballots, at least two to each elector, according to the vote at the last preceding election, for election of all officers for whom the electors are entitled to vote, and for all proposed constitutional amendments or other questions to be submitted to the electors of the State for popular vote in compliance with the provisions of law. (Am. Act 271, 1895.)

48. Commissioners to Cause Ballots to be Printed. (10) The said board of election commissioners shall cause to be printed on the ballot the names of the candidates nominated by the regularly called conventions of any party.

49. Party Committees to Furnish Vignettes and Names. (10) And it shall be the duty of the State, district or county committee of each political party to forward to the chairman of the said board of election commissioners of each county in the State, not less than twenty days prior to any such election, a copy of the vignette adopted by them, and the names of all candidates nominated at any regularly called convention, at which candidates for any of the offices mentioned in section one of this Act shall be nominated, and no other names, unless authorized or instructed by said convention. All the names of parties so nominated shall be certified to by the chairman and secretary of the respective committees.

This section is amended by Act 271, Public Acts, 1895, by what is known as

the "anti-fusion" provision. Its essential features are summarized as follows:

1. The name of no one person is to be printed in more than one column on the ballot for the same office.

2. Where the name of the same person is certified to the commissioners as having been nominated by more than one party, the candidate may, within five days (in the county of Wayne three days), after being so certified, notify the commissioners in writing, either by personal delivery or by mail, directed to the chairman, in which column he wishes his name to appear.

3. If the candidate fail to so notify, the commissioners shall print his name in the column of the party first certifying his nomination.

4. In city, village and township elections, the notice contemplated by clause 2 may be given within two days after certification.

5. In the county of Wayne nominations may be certified ten days before election.

50. State Committee to Adopt Vignette. (11) It shall hereafter be the duty of the State committee of any political party or organization in the State, before each election, to prepare and adopt by engraving or otherwise, a vignette, to be printed at the top of the column of such ballot assigned to such party, as a distinctive and characteristic heading thereto; such vignette shall not be more than one inch and a half square, and in addition to the device adopted, shall set forth legibly the name of such party.

51. Vignette and Copy of Ballot to be Filed. (12) When such vignette and heading shall have been adopted and prepared, an impression of the same, followed by the names of the candidates nominated at, or by the direction of the regularly called convention, printed and sealed up in an envelope, shall be filed by the respective committees with the county clerk of the county where such election is to be held, and with the secretary of state, at least twenty days before such election, except that in the county of Wayne, where such duty shall be performed by the respective committees at least ten days prior to such election. (Am. Act. 271, 1895.)

52. Penalty for Counterfeiting. (12) Such lists shall be kept by the secretary of state and the said county clerk on deposit, and from the time of said filing it shall be unlawful for any person to imitate, copy, or in any manner counterfeit the same, or change the name of the candidate of such regular convention, except as herein provided, or by authority of such convention.

53. Vignette to Remain as Official Until Changed. (12) Such vignette and heading shall remain as the heading for the column of such party organization on the ballots of all elections until changed by the proper committee, and notice thereof shall have been given to such county clerks and secretary of state.

54. Commissioners to Provide Cuts of Vignette. (12) It shall be the duty of the board of election commissioners to provide, at the expense of the county, a sufficient number of cuts of the several vignettes provided for in this Act, from which to print the necessary number of ballots to be distributed by them.

PREPARATION AND DISTRIBUTION OF BALLOTS.

55. How Ballots to be Printed. (14) The board of election commissioners in each county shall cause the names of all candidates for the various offices mentioned in section one of this act to be voted for in each legislative district of said county at any election held pursuant to the provisions of this act, to be printed on one ballot, all nominations of any party to be placed in a separate column under the title and device of such party as designated by them in their certificate, with the name of each candidate opposite the name of the office for which he was certified to have been nominated. At the general election held in November, the names of the several offices to be voted for shall be placed on the ballot in the following order: Electors of President and Vice President of the United States, Governor, Lieutenant

Governor, Secretary of State, State Treasurer, Auditor General, Attorney General, Superintendent of Public Instruction, Commissioner of the State Land Office, member of the State Board of Education, representative in Congress, Senator and Representative in the State legislature, Judge of Probate, Sheriff, Clerk, Treasurer, Register of Deeds, Prosecuting Attorney, Auditor in counties electing an Auditor, Circuit Court Commissioners, Coroners, Surveyor. At the general election held in April the order shall be, Justice of the Supreme Court, Regents of the University, Circuit Judge, County Commissioner of Schools. At any election to fill vacancy, the office to be voted for shall be placed in the appropriate place on the ballot, regard being had to its being a State, congressional, legislative or county office. The ticket of the party having the greatest number of votes within the State at the last preceding presidential election, as shown by the votes cast thereat for electors of President and Vice President, shall be placed first on the ballot, the position of other tickets to be governed relatively by the same rule. The ballots shall be of uniform size and of the same quality and color of white paper, and sufficiently thick that the printing cannot be distinguished from the back, and the ballots in each election district shall be numbered consecutively on the upper right-hand corner of the front side thereof, and no two ballots of the same kind in the same township or election district shall have the same number; such corner containing said number shall be perforated diagonally across the corner of the ballots, so that it can be handily torn off as hereinafter provided, before such ballot is deposited in the ballot box. The arrangement of the ballot shall conform as nearly as possible to the following plan, and shall contain the specific instructions therein set forth, and no others. (Am. Act 214, 1901.)

The form of ballot is so well understood that it is not included in this compilation.

56. Constitutional Amendments. For the section governing the method of voting on constitutional amendments, etc., see page 21.

57. Proof Copy of Ballot. (11) A proof copy of the ballot shall be placed on file at the office of the county clerk of each county by the board of election commissioners, and be open for inspection by the candidates named thereon, but by no other person, at least ten days prior to each election, except in the county of Wayne, where such copy shall be on file at least six days prior to each election. And it shall be the duty of the board of election commissioners to correct such errors as may be found therein by such inspection. (Am. Act 271, 1895.)

58. Marking Pencils to be Provided. (17) It shall be the duty of the board of election commissioners to provide and enclose in each package of official ballots to be delivered to some member of the board of election inspectors of each voting precinct, as many black or blue lead pencils, to be attached with strings or in other suitable manner to the booths, as may be necessary, at least three black or blue lead pencils, being furnished for every booth erected as hereinafter provided. And the board of election commissioners of each county shall audit and issue their warrants for the same, which shall be paid by the county treasurer out of the general fund of the county. (Am. Act 59, 1897.)

59. Supplying Vacancies, Pastors, etc. Where vacancies occur after the ballots have been printed, election boards are required to supply them by pastors, etc. See page 21 for section governing under this head.

DELIVERY OF BALLOTS TO ELECTION OFFICERS.

60. Chairman of Election Inspectors to Procure Ballots. (19) It shall be the duty of the chairman of the board of election inspectors of each voting precinct in each county, or in case he cannot attend, some other member of such board, authorized in writing by said chairman, to appear at the office of the county clerk of his county, not more than four nor less than two days before each election, and the board of election commissioners shall deliver to him, in a sealed package, the ballots and the marking apparatus provided for his precinct: Provided, That in cities where a later date is fixed for the delivery of city ballots to said chairman, the ballots may be delivered by the board of election commissioners at the same time that the city ballots are so delivered, and in election precincts where the ballot boxes are delivered locked to election inspectors by officials, such marking apparatus (pencils) may be enclosed in such boxes instead of with the ballots. (Am. Act 271, 1895.)

61. Ballots to be in Sealed Packages and Receipted For. (19) The necessary number of ballots shall be wrapped and tied in packages, and securely sealed with wax, and the chairman of said board, or some other member thereof duly authorized therefor, shall make and sign a certificate setting forth the number of ballots in such package, and that such ballots were packed and sealed by himself personally, and upon delivery of such package and said certificate to said inspector of elections he shall receipt for the same; and for the safe sealing of such ballots, the county board of election commissioners shall provide themselves with a seal of such design as they may deem proper.

62. When Packages of Ballots to be Opened. (19) Said packages shall not be opened until delivered to the election board of the respective voting precincts to which they are directed, when said boards shall be fully organized and ready for the reception of votes as in this act provided.

63. When Ballots to be Sent by Special Messenger. (20) In case none of the board of election inspectors of any precinct shall appear at the office of the county clerk within the time above specified, the board of election commissioners shall forthwith dispatch a special messenger to such precinct, with the ballots and stamps for such precinct, wrapped, tied and sealed as aforesaid, who shall deliver the same to one of the election inspectors or some responsible elector of such precinct, to be designated by the board of election commissioners, who may receipt therefor, and whose duty it shall be to deliver the same to the inspectors at the polling place before seven o'clock in the forenoon of the day of election. Such messenger shall promptly report to such clerk and file with him the receipt of the person to whom he delivered such ballots and stamps, and his affidavit stating where, when and to whom he delivered the same.

64. Unlawful Printing and Delivering of Ballots. (16) It shall not be lawful for the printer of such ballots, or any other person, to give, or deliver to, or knowingly permit to be taken, any of said ballots, by any person other than a member of the board of election commissioners, for which such ballots are being printed, or to print or cause or permit to be printed, any ballot in any other form than the one prescribed by this act, or with any other name thereon, or with the names misspelled, or the names or devices thereon arranged in any other way than that authorized and directed by the said board of election commissioners: Provided, That it shall and may be lawful for the chairmen of committees and candidates named on the official ballot to procure any number of *fac similes* of the ticket to be printed on red, yellow or blue paper, and to circulate the same for the purpose of the instruction of voters, said colored ballot to have printed at the head the words "Instruction Ballot." (Am. Act 202, 1893.)

DUTIES OF CERTAIN OFFICERS AND BOARDS.

65. Election Districts. (4) When any election district or voting precinct shall contain over three hundred electors according to the poll list of the last general election, the township board in townships, and the city council in cities, may, in their discretion, divide such voting precinct into two or more election districts. In case of townships and incorporated villages so divided, the provisions of chapter eight of Howell's Annotated Statutes shall apply to and govern all proceedings hereunder, with reference to such division, boards of registration, election inspectors, and all matters arising therefrom not provided for by this act. In cities where no provisions exist relative thereto, such division and all matters arising therefrom, not covered by the provisions of this act, shall be provided for by ordinance of the common council of said city, and it is hereby made the duty of such common council to make all necessary rules and regulations in connection herewith to fully carry out the provisions of this section. (Am. Act 17, 1897.)

This section will govern in the matter of election districts in cities of the fourth class, irrespective of the provision noted in sec. 79.

66. Summary of Certain Duties. Section 6 of the Act of 1891 requires township and city clerks to provide ballot boxes and election seals for the several voting precincts. Section 21 provides for placing the railing, gates, and booths in the polling room. Section 31 requires the Secretary of State to supply the clerk of each county with printed instructions, to be by him supplied to the several voting precincts. As to the method of posting the same, see Sec. 4 herein.

SALOONS AND LIQUORS.

66. Duties of Inspectors in Case of Saloon, etc. (40) No election shall be held, nor shall any election be appointed to be held in any saloon or bar room, or in any room or place contiguous with or adjoining thereto. Should any place be designated or appointed for holding an election in violation hereof, or become subject to such objection after having been so designated the inspectors of election shall have power, and it shall be their duty, on or before the day of such election, and before the opening of the polls on such day, to procure a suitable place as near thereto as may be, not subject to like objection. Said inspectors shall meet at the place first designated at the time for opening the poll, and after any vacancies in their number shall have been filled, adjourn to the place chosen by them, and at the time of said adjournment, give public notice to the electors present by proclamation of such change and post in a conspicuous manner notice of the place where such election shall be held, and all expenses attending such change shall be certified by said inspectors to the proper authorities and shall be allowed and paid accordingly.

67. Liquors Not to be Introduced. (41) Any person or persons introducing in any way, upon election day, into the building where an election is being held, any spirituous or malt liquors, and any inspector or clerk of election drinking any such liquors in such places, or being intoxicated therein upon election day, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding sixty days, or by both such fine and imprisonment, in the discretion of the court.

CERTAIN DUTIES, LIABILITIES AND PENALTIES.

68. Expenditures by Candidates Forbidden. (43) It shall not be lawful for any candidate for any elective office, with intent to promote his

election, or for any other person, with intent to promote the election of any such candidate, either:

First, To provide or furnish entertainment at his expense to any meeting of electors, previous to, or during the election at which he (shall) may be a candidate; or,

Second, To pay for, procure, or engage to pay for any such entertainment; or,

Third, To contribute money for any other purpose intended to promote an election of any particular person or ticket, except for the defraying the expenses of office room or hall rent, postage, stationery and clerk hire, music at public meetings, the pay and expenses of public speakers, transportation of committeemen, the pay of challengers at polls, and of persons to inspect the registration of voters and of persons employed to make lists of the voters in election precincts, and of printing, and the circulation of handbills and other papers previous to any such election, or for conveying electors to the polls. (Am. Act 202, 1893.)

69. Statement of Expenses to be Filed. (44) It shall be the duty of every candidate for any office named in this act, and of the chairman of every State, district and county committee of each political organization, within twenty days after each election held pursuant to the provisions of this act, to make and file an affidavit stating the amount of money expended by such candidate or committee in and about the canvass of such candidate or political organization in connection with such election, and further showing that no expenditures have been made by such candidate or political organization or by any person in his or its behalf to the knowledge or belief of the person making such affidavit, for any purpose prohibited by this act. Such affidavit, when made by the chairman of the State committee or a candidate for any State office, shall be filed in the office of the Secretary of State; when made by the chairman of any district committee or a candidate for the office of presidential elector, member of Congress, State senator or representative, in the office of the clerk of the county to which election returns for said district are made, and when made by the chairman of any county committee or candidate for a county office, in the office of the clerk of such county. Willful false swearing in this or any other matter herein required to be under the oath of any person, shall be deemed perjury, and punishable accordingly.

70. Certain Acts a Felony. (45) Any person who shall knowingly violate any of the provisions of this act, or shall willfully neglect or refuse to perform any duty enjoined upon him hereby, or shall disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballot shall have been seen by such person, or shall in any manner obstruct or attempt to obstruct any elector in his exercise of his duties as such elector under this act, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the State Prison not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

TOWNSHIP, CITY AND VILLAGE ELECTIONS.

An Act to prescribe the manner of conducting municipal and township elections, and to prevent fraud and deception thereat. Approved July 3, 1891. Act No. 194, Public Acts, 1891.

71. General Laws Applicable. (1) That all elections hereafter held in the various cities, villages and townships in this State, shall be in conformity with the provisions of the laws governing elections so far as the same shall be applicable thereto, and all the provisions of such laws relative to the boards of election inspectors, the arrangement of polling places, the manner of voting and receiving votes, and the canvass and declaration of the result of such election, are hereby made applicable to such municipal and township elections, but the time for the opening and closing of the polls shall not be affected thereby.

72. Board of Election Commissioners. (2) The township board of each township, and such persons as shall be elected therefor by the common councils of the various cities and villages in this State, shall be the board of election commissioners for such township, city, or village respectively, and shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties.

73. Party Committees. (2) And like duties and privileges as are enjoined and granted by the laws governing general elections upon the various committees of the different political organizations are hereby prescribed for the city, village or township committees in elections held pursuant hereto; except that it shall not be necessary for the committees of the different political organizations to furnish a vignette or heading for the ballots other than to designate the name of the party or political organization which they represent.

74. When Names to be Supplied. (3) In municipalities governed by this law, the names of candidates shall be given by the committees of the various political organizations to the board of election commissioners of such municipality not less than five days before each election, and the proof copy of the ballot shall be open to the inspection of the chairman of each committee at the office of the township clerk, and city or village clerk or recorder, not less than two clear secular days before such election.

TOWNSHIP ELECTIONS.

75. Opening and Closing Polls. Act No. 138, Public Acts of 1903, amends Section 2303 of the Compiled Laws of 1897, relative to conducting township elections.

It provides that: at township elections the polls shall open at seven o'clock or as soon thereafter as may be, and close at five o'clock; that the inspectors shall cause proclamation to be made on opening the polls, and also one hour, thirty minutes and fifteen minutes, respectively, before the closing thereof.

that the number voting for and against may be ascertained and declared, and a record made of it. This is an amendment to §710 of Howell, which provided that the business should be done between twelve and three o'clock.

78. Where Townships Are Divided. Act No. 242, Public Acts, 1895, amends section 131 of Howell relative to the transaction of township business at town meetings where the township is divided into election districts. It provides that the electors in each district shall vote separately, and only on questions submitted by the township board.

CITY ELECTIONS.

Act 215, of the Public Acts of 1895, relative to cities of the fourth class, brings many of the cities of the State under its provisions, and the following summary of the provisions governing registration and election in such cities will be found of value.

79. Election Districts. The common council have authority to divide the wards into election districts, or to subdivide the districts, where they contain more than 650 voters. Each ward is made an election district unless otherwise subdivided.

80. Registration. The aldermen of each ward constitute the board of

registration, but the council may name registration boards of new wards or districts, or in case of vacancy. Registrations are held as noted in section 96, but provision is made for new registries in case of the formation of new wards or districts.

81. Elections. The city election is held on the first Monday of April. The hours and the election officers are the same as at general elections. The elective officers are mayor, city clerk, city treasurer, and two justices of the peace, the latter for four years and the others for one year each. A supervisor, two aldermen and a constable are elected in each ward. The common council, at least ten days before a city election, are required to appoint three persons as election commissioners, who shall not be of the same political party, to see to the preparation and distribution of the ballots.

QUALIFICATIONS OF ELECTORS.

82. Who May Vote. The elective franchise in Michigan is confined to male persons twenty-one years of age and over, except that by some special statutes women citizens of full age are entitled to vote for school officers. Such persons only can vote who come within one or the other of the following classes:

- I. Citizens of the United States, whether native or naturalized.
- II. Persons of foreign birth who resided in the State on the 24th day of June, 1835.
- III. Persons of foreign birth who resided in the State on the 1st day of January, 1850.
- IV. Persons of foreign birth who resided in the State two years and six months prior to November 8, 1894, and declared their intention two years and six months before that day.
- V. Civilized persons of Indian descent, born in the United States, and not members of any tribe.

A right of suffrage acquired under the 2d, 3 and 4th clauses above, does not confer the right upon sons. But sons of aliens who have declared their intentions, but died before naturalization, may become citizens upon making proof and taking the oath.

But no person can vote who has not resided in the State six months, and in the township or ward 20 days preceding the election. Electors must also be registered.

Service in the army or navy does not of itself confer citizenship, but it confers a right of citizenship upon making the requisite proof and taking the prescribed oath.

83. Citizenship. Citizenship consists of—

- I. Persons born in the United States, and subject to the jurisdiction thereof.
- II. Persons born in a foreign country and lawfully naturalized.
- III. Children born in a foreign country, whose parents were citizens of the United States at the time.
- IV. Minor children of foreign birth, dwelling in the United States at the time of the naturalization of their parents, if coming to the country before the age of sixteen.

This defines citizenship generally, although it may be qualified by various circumstances.

84. Residence. There is no general statute in Michigan defining residence. Most of the city charters provide that it shall be where the voter's family resides, or where his regular boarding house is, and the decisions confirm this rule, and it will govern in all cases except where special provision is made to the contrary (72 Mich., 398). But in cities of the fourth class the residence of an elector is defined to be where "his regular place of lodging" is located. The charters of some of the cities have a similar provision, while in others the boarding place is defined as the residence. The temporary residence of one's family elsewhere does not affect his domicile, and a person may acquire a residence and right to vote at a place other than where his

family resides, if such be his intention. (33 Mich., 252.) An elector does not gain or lose a residence while in the employ of the United States or of this State, nor while employed as a sailor, nor while a student at any seminary of learning, nor while kept at any almshouse or asylum at public expense, nor while confined in any prison. (Constitution of Mich., Art. 7, Sec. 5; 97 Mich., 361.) Some of the city charters have a provision that an elector removing from one ward to another within ten days preceding an election may vote in the ward from which he removed in case he resided there ten days. These provisions were made prior to the change in the constitution extending the period of residence to twenty days, and they would be bad law in any event. The elector must have resided in the ward twenty days (formerly ten days) "next preceding" the election. If he removes from the ward where he may have acquired a residence, although registered there, into another ward, within the twenty days, he loses his vote. Different, however, in removing from one election district into another in the same ward, after registration. In such case the elector should vote in the district from which he removed.

85. Foreign Born Voters. A person of foreign birth claiming a right to vote cannot be required to show his papers as a condition of registration or voting. A different rule of evidence cannot be required from a citizen of foreign birth from what is required from a native born citizen. (78 Mich., 545.)

REGISTRATION.

Registration, When Made. In townships, the boards of registration are required to be in session at the office of the township clerk on the Saturday preceding any election from 9 a. m. to 5 p. m. (Howell, Secs. 90-91.) In cities, by the general law, the hours are 8 a. m. to 8 p. m. The sessions are on the Saturday preceding a general election, or any election occurring on Monday, and on such other days, not exceeding three days in all, as the common council may appoint. (Howell, Sec. 84.) This rule is not changed as to cities of the fourth class by the Act of 1895. There is no limitation of time within which the three days' registration shall be held, but by inference it should not begin earlier than the first Monday in October for a general election, and relatively in point of time for a city election. A new registration is required in the townships, cities and villages of Wayne county every presidential year, for which purpose the boards (except in the city of Detroit) meet on the first Monday in October, and for not less than three nor more than six days thereafter, the places of meeting (by inference) to be selected by the several boards, the hours to be 9 a. m. to 1 p. m., and 2 to 5 p. m. (Howell, Sec. 121.) There is no provision requiring notice to be given. In townships, an elector may hand to any member of the board of registration, at any time, other than Sunday, a memorandum of his name and residence, and the officer may examine him on oath as to his qualifications, and when the board meets his name will be entered in the register if he be deemed a legal voter. The supervisor, township clerk and township treasurer constitute the registration board. In cities, after the first two days of their session, the board may enter in the register the names of all persons known by them to be voters. During the first two days, names can be entered only upon personal application. A person whose right to vote will accrue on or before election day, as in the case of a minor coming of age, or the completion of the requisite term of residence in the State or precinct, should be registered, even though at the time of registration, he would not be entitled to vote. A person who, by reason of absence from the precinct, or sickness of himself or immediate family, may be unable to register during the regular days of registration, may register on election day by making proof of the fact by his own oath and that of a resident elector. (Howell, § 93.)

Re-Registration in Cities. By Act 215, Public Acts, 1895, Ch. 33, Sec. 1, all cities of the fourth class are required to have a re-registration every presidential year. Other cities are governed in this respect by their charter provisions.

CERTIFYING NOMINATIONS.

The State central committees are required to certify their nominations, together with their vignette, to the chairman of the board of election commissioners of each county, at least twenty days before election. (See Sec. 49.)

Congressional, Senatorial and Representative district committees are required to certify their nominations and vignette in like manner, to the counties constituting the district, or in which the district may be situated.

County committees are required to certify their nominations and vignette, in like manner, to their proper county.

Certificates should be addressed to the Judge of Probate, as chairman of the board of county election commissioners. (See Sec. 49.)

A further certificate is required by Section 51. The certificate of the vignette, required by that Section, seems necessary as fixing its official character, but beyond that the language of the Section seems not only ambiguous, but its requirements utterly senseless. The State central committees usually send out instructions and blank forms, which local committees should follow.

Boards of election commissioners are not, as a rule, disposed to be technical in the matter of receiving and acting upon nominations that are certified to them. The certification may not be as formal in its terms as the pleadings in a court of record would be required to be, and yet it will be accepted. In case nominations are not certified within the time prescribed by the law, boards of election commissioners will most likely receive and place them on the ballot if received within such time as they could reasonably do so. Although party spirit sometimes runs pretty high, in matters that are purely ministerial in the management of elections, our rival party leaders usually prefer to regard themselves as good neighbors rather than as enemies, and to govern their action accordingly.

All certificates should set forth that the candidates were nominated at a "regularly called convention" of the party, giving time and place. The caucus law, so called, will be held to be directory rather than mandatory, and a convention or caucus, if held according to the usage of the party, would be "regularly called convention." Nominations made by a newly organized party, or by an independent movement, would be recognized, but they should represent a respectable number of the electors in order to entitle them to a place on the ballot, and the election commissioners would necessarily judge in such a case as to the somewhat uncertain quantity of a "respectable number." In general it may be said that if the nominations are certified as having been made at a "regularly called convention," the election commissioners, who act ministerially rather than judicially, will not undertake to inquire into the matter of regularity. Cases may of course arise between rival factions in a party, in which the commissioners will listen to the representations of both sides as to the position which their ticket should have on the ballot, but the courts are the proper resort where there is time to get a ruling. The liberal rule with boards of election commissioners has been to give all parties an opportunity to express themselves through the ballot, rather than to exclude any from it on technical grounds.

The law requires that nominations shall be certified as having been made at a regularly called convention, and that no other names shall be certified or printed on the ballot "unless authorized or instructed by said convention." (See Sec. 49 and 51.) It is usual for conventions, by vote, to authorize the proper committee to fill any vacancies that may occur on the ticket, through declinations or otherwise. Sometimes the naming of candidates is left wholly to the committee. The language of the statute, "unless authorized or instructed by said convention," clearly has reference to this practice. But suppose that the convention makes its nominations, and fails to express itself as to the manner of filling any vacancies that may occur? In such case the authority of the committee to act may well be presumed, as a sort of common law regulation with parties. A party committee is the executive head of the party within its jurisdiction, and may do any reasonable act in the interest of the party not otherwise provided for or forbidden to it, in case of emergency, analogously as the executive officers of a State have the interests of the whole commonwealth in charge.

DISTINGUISHING MARKS ON BALLOTS.

Much uncertainty has existed as to what should be regarded as "distinguishing marks" on ballots within the meaning of section 36 of the Act of 1891 (section 34). In the Bay City case (Scott vs. Glaser, 102 Mich., 396), the Supreme Court at first were inclined to construe the statute rigidly, and to hold any mark not prescribed by the statute to be a distinguishing mark that should invalidate the ballot. In the revised opinion, however, handed down January 8, 1896, the rule is made more flexible, and may be thus stated: That any mark on a ballot that is clearly designed to express the intent of the voter, or to emphasize or make his intention more clear, if it be such a mark as is recognized by the statute, does not vitiate the ballot.

Some of the ballots that were in dispute, and which it is held should have been counted, were:

1. Where the ticket was properly marked at the top and a name erased, and the corresponding name on another ticket marked with the cross;
2. Where marks of cancellation were drawn across two tickets on the ballot, and the cross mark made in the circle at the top, or opposite the several names on the remaining ticket;
3. Where a cross appears in the circle under the party name of a ticket, and the name of a candidate therein is erased, and the surname of the candidate for the same office on the opposing ticket is written in;
4. Where a cross appears in the circle at the head of a ticket, and the name of one of the candidates on said ticket is partly erased, and another name written thereon with a lead pencil.

Some ballots that should be thrown out, under the ruling of the court, by reason of having distinguishing marks, may be thus described:

1. Ballots that have more than one cross under the same heading—excluded by reason of "a multiplicity of crosses;"
2. A ballot having a cross under the Republican heading and two marks similar to commas under the Democratic heading;
3. A ballot having a cross under the Republican heading with a half circle round it, and a figure 9 in the circle under the Citizens' ticket heading;
4. Where a cross appears in the body of a ticket outside of any square (or circle);
5. Where a cross appears under the party name on a ticket, and a horizontal line is drawn through the circle under the party name on each of the other tickets;
6. Where a cross appears under a party name on a ticket, and also opposite the name of a candidate on another ticket, and a line is drawn "under" the

name of the candidate for the same office on the first named ticket;

7. Where a ballot has no cross upon it, but a blot appears in the center thereof;

8. Where a ballot has no cross upon it, but a straight line is drawn through the circle under the party name on one of the tickets;

9. A ticket having a cross under a party heading outside of the square (or circle), and the latter enclosed by a large circle.

The present ballot law went into effect during the official term of Attorney-General Ellis, and received very careful attention at his hands. Some of his conclusions are summed up in his annual report for 1893, p. 136 (Mich. Joint Documents, 1893, vol. 3), as follows:

"A decision whether irregular marking upon a ballot is a distinguishing mark must be governed largely by an estimate of the intention of the voter, or of the significance of his mark in each particular instance. No inflexible rule on the subject can be laid down."

"When a statute specially declares that an identifying mark shall avoid the ballot, the rule seems to be that ordinary deviations, due to awkwardness or carelessness, are not to be regarded."

Canadian decisions are not, as a rule, held as authority in the States, except as they may be recognized by the courts, but they will be given especial weight in this connection from the fact that the ballot system under which we are now acting is of British colonial origin, and had received constructions from British colonial courts before its adoption here. The Attorney-General quotes from Canadian authorities (Report 1893, p. 136):

"Whenever the court is convinced that the irregularity was the result of awkwardness; or a stiff, heavy or trembling hand; of carelessness; or an attempt to correct the supposed defect; or to make a line more clear or more straight; wherever, in short, it appears that the additions to the required cross, or the form of the cross, or its embellishments, are owing to an unskilled hand, rather than a desire to identify one's self, the ballot should not be rejected."

"Whenever it can be reasonably inferred from the marking that there was an honest design to mark the ballot correctly, and not an intention to mark the paper so that it could be identified, the ballot should be counted."

"It has been held that informalities alone should not vitiate the ballot when the intention is clear: neither should additions or embellishments, or placing the mark in an improper place, as placing it at one side of the square"—(meaning the square at the head of the ballot, or the circle, as now prescribed.)

[As a matter of typographical convenience, the following sections are taken out of their regular order and made to stand as page 21 herein.]

56. **General Revision of the Constitution.** At a special election to be held on the first Monday of April, in the year nineteen hundred and six, the question of calling and holding a convention for the purpose of making a general revision of the Constitution shall be submitted to the electors of the State qualified to vote for members of the legislature.

The ballots shall be printed by the board of election commissioners of the several counties, and shall be separate and distinct from any and all ballots containing the names of nominees for public office, or relating to amendments to the Constitution, and shall be as follows:

"Shall a convention for the purpose of a general revision of the Constitution be held?" with the words "Yes" and "No" printed below in separate lines, where the elector shall designate his vote by a cross mark [X] opposite the word "Yes" [] or "No" []. The ballots shall conform in all respects to the provisions of law relating to the submission of amendments to the Constitution, and shall be delivered to the inspectors.

It shall be their duty to furnish each elector with such ballot, and inform him of its nature and purpose. On coming out of the booth the elector will hand the ballot to the inspector, who will place it in the box prepared for it.

Such votes shall be taken, counted, canvassed, and returned as provided by law for the election of Justices of the Supreme Court. (Am. Act 325, 1905.)

~~It shall be the duty of the chairman of the board~~ of election inspectors to put one of such pasters in a careful and proper manner, in the proper place on each ballot, before it shall be given to any elector for the purpose of voting; and in case the name of any candidate regularly certified to said board of election commissioners shall have been omitted from such ballots, said board of election commissioners shall furnish pasters containing the name of such candidate, and the same shall be placed upon the ballots as herein provided in the case of a candidate selected to fill a vacancy. In case of such death, removal or resignation before the printing of such ballots, the name of the person selected in place of such candidate shall be communicated by the proper committee of the political organization to which such candidate belonged, and the necessary change in such ballot shall be made by the board. (Am. Act 271, 1895.)

SAMPLE BALLOT No. 1.

A STRAIGHT REPUBLICAN TICKET.

NAME OF OFFICE VOTED FOR.	REPUBLICAN. ☒	DEMOCRATIC. ☐	PEOPLE'S. ☐
Mayor	☐ Sylvester Abel.	☐ Charles Babcock.	☐ Daniel Campbell.
City Clerk	☐ Levi Aldrich.	☐ Norman Bailey.	☐ Orrin Chapman.
City Treasurer.....	☐ Charles Austin.	☐ John Barber.	☐ John Clare.
City Attorney.....	☐ David Andrews.	☐ John Bartow.	☐ Henry Compton.
Police Justice	☐ John W. Allen.	☐ Byron D. Ball.	☐ Millman Cooper.
Justice of Peace...	☐ Henry J. Alvord.	☐ Noah Beach.	☐ Martin Connor.
MembersBoard of Estimates at large	☐ Oliver H. Abell.	☐ Norman Andrews.	☐ Samuel Axford.
	☐ John S. Barry.	☐ Levi L. Baxter.	☐ Adam Beattie.
	☐ John L. Curtis.	☐ Robert Crouse.	☐ George B. Cooper.
	☐ Titus Dort.	☐ Ellery Deming.	☐ Charles Dixon.
	☐ Edward Ellis.	☐ Ralph Ely.	☐ Samuel Etheridge.

SAMPLE BALLOT No. 3.

A MIXED TICKET.

NAME OF OFFICE VOTED FOR.	REPUBLICAN. ☐	DEMOCRATIC. ☐	PEOPLE'S. ☐
Mayor	☒ Sylvester Abel.	☐ Charles Babcock.	☐ Daniel Campbell.
City Clerk	☐ Levi Aldrich.	☒ Norman Bailey.	☐ Orrin Chapman.
City Treasurer. ...	☐ Charles Austin.	☐ John Barber.	☒ John Clare.
City Attorney.....	☐ David Andrews.	☐ John Bartow.	☒ Henry Compton.
Police Justice	☒ John W. Allen.	☒ Byron D. Ball.	☐ Millman Cooper.
Justice of Peace...	☐ Henry J. Alvord.	☐ Noah Beach.	☐ Martin Connor.
MembersBoard of Estimates at large	☒ Oliver H. Abell.	☐ Norman Andrews.	☐ Samuel Axford.
	☐ John S. Barry.	☐ Levi L. Baxter.	☒ Adam Beattie.
	☐ John L. Curtis.	☒ Robert Crouse.	☐ George B. Cooper.
	☐ Titus Dort.	☐ Ellery Deming.	☐ Charles Dixon.
	☐ Edward Ellis.	☐ Ralph Ely.	☐ Samuel Etheridge.

The "Mixed Ticket" votes only for those whose names are marked with the X, but as two names are so marked for Police Justice, the vote does not count for either

